

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ANTONIO A. GARCIA, #01052874, §
§
Petitioner, §
§
v. § Case No. 6:24-cv-129-JDK-KNM
§
DIRECTOR, TDCJ-CID, §
§
Respondent. §

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Petitioner Antonio A. Garcia, an inmate proceeding *pro se*, filed this petition for writ of habeas corpus without paying the \$5 filing fee or submitting the necessary support for his application to proceed *in forma pauperis*. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On June 5, 2024, the Magistrate Judge issued a Report recommending that the petition be dismissed without prejudice for failure to comply with the Court's order to satisfy the fee requirement for this case and recommending that a certificate of appealability be denied. Docket No. 12. Petitioner received the Report sometime before June 18, 2024, and he has not filed written objections. Docket No. 14.

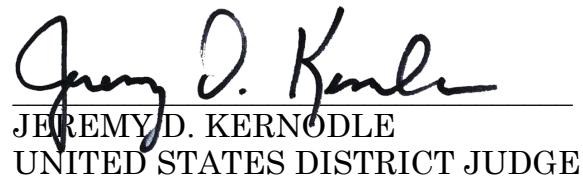
This Court reviews the findings and conclusions of the Magistrate Judge *de novo* if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a *de novo* review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United*

Servs. Auto. Ass'n, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Petitioner did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), cert. denied, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 12) as the findings of this Court. Petitioner's unsupported IFP application (Docket No. 2) is **DENIED**. Petitioner's petition for habeas corpus is hereby **DENIED** and **DISMISSED** without prejudice for failure to prosecute. The Court **DENIES** a certificate of appealability. All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this 24th day of **July, 2024**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE